IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 488 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

ALAKHAJI KALAJI NINAMA

Appearance:

Mr.K.P. Rawal, APP, for the appellant

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 06/02/2001

ORAL JUDGEMENT

1. This appeal is filed by the State of Gujarat under Section 11 of the Probation of Offenders Act, 1958, by challenging the judgment and order dated April 30, 1991, passed by the learned Judicial Magistrate, First Class, Himmatnagar, whereby, the learned Magistrate

convicted the respondent for the offences punishable under Sections 325 and 504 of the Indian Penal code and sentenced to suffer S.I. for three months for each offence, but the learned Magistrate released the respondent on benefit of the Probation of Offenders Act, 1958 on furnishing a bond of good conduct for two years in the sum of Rs.2000/-.

2. It was contended by the appellant that, when the respondent was found to have been committed serious offences under Sections 325 and 504 of the Indian Penal Code, it was not proper for the learned Magistrate to release the respondent on probation.

3. Having gone through the record and proceedings and the report of the Probation Officer produced at Exh.48, in my opinion, the learned Magistrate has committed no error or illegality in giving benefit to the respondent under the Probation of Offenders Act, 1958. Looking to the circumstances in which the incident had taken place and the antecedents of the respondent, the learned Magistrate was justified in extending benefit of the Probation of Offenders Act, 1958 to the respondent on furnishing a bond of good conduct for two years in the sum of Rs.2000/-. I do not find any illegality or infirmity in the order of the learned Magistrate.

4. For the foregoing reasons, the appeal, being meritless, is dismissed.

February 6, 2001 (M.H. Kadri, J.)
(swamy)